



What is the Price of Dysfunction? The San Mateo County Harbor District

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SUMMARY

There is no way to sugar coat the issue. The commission governing the San Mateo County (County) Harbor District (Harbor District or District) is in disarray. It operates the District at significant yearly losses. Its commission meetings sometimes require police presence. YouTube videos mock the commissioners. Tenants' rent checks are lost. Public comments about the commissioners are scathing. Financial reporting is anything but transparent. There are accusations of records destruction and excess benefits paid to commissioners. Lawsuits charging harassment fly between a commissioner and the District's general manager. Video recording of commission meetings is abruptly suspended, and then reinstated. One commissioner loudly complains about the seating arrangement at meetings. Press reports frequently document the dysfunction. Social media is rife with criticism. A reporter for a daily newspaper claims that commissioners don't "want to fix the problems, they just want to be right." Meanwhile the property taxpayers of San Mateo County fund the District to the tune of \$5,000,000 annually.¹

The 2013-2014 San Mateo County Civil Grand Jury (Grand Jury) received numerous complaints from the public about the District, including how the District awards leases, the alleged overcharging of lessees, the election process of commissioners, and a lack of transparency in the District's financial reporting. The District's office is overwhelmed by public records requests. The public's disenchantment with the District has been reported on and documented as far back as 1963. A 2001-2002 County Grand Jury report remarked on the lack of collegiality between District commissioners. And in 2006, a Municipal Service Review (MSR)² by the Local Agency Formation Commission (LAFCo)³ recommended that the District be dissolved.

The District's mission statement mandates "well-managed, financially sound" marinas.⁴ Yet after a lengthy investigation, it is clear to the Grand Jury that the District commissioners are lacking in professional decorum and fiscal oversight, and that a lack of fiscal transparency makes it impossible to determine exactly how taxpayers' money is being used. Numerous press reports, blogs, comments on social media, remarks from constituents at commission meetings, and complaints to the Grand Jury indicate the public's confidence in the responsible governance of the District is suffering as a result.

¹ See Appendix A for citations

² http://www.co.sanmateo.ca.us/Attachments/lafco/pdfs/2006_10_lafco_ms_harbordist.pdf

³ San Mateo LAFCo (LAFCo) is a State-mandated, independent commission with jurisdiction over the boundaries of the 20 cities, 22 independent special districts and many of the 35 County-governed special districts serving San Mateo County. LAFCo has countywide jurisdiction over changes in organization and boundaries of cities and special districts including annexations, detachments, incorporations and formations.

⁴ <http://www.smharbor.com/harbordistrict/index.htm>

In this report the Grand Jury's foremost recommendation is dissolution⁵ of the Harbor District with its functions assumed by the County. The Grand Jury believes that due to a lack of oversight, ineffective and inefficient governance, and the unwieldy sprawl of the services it provides, the Harbor District has lost the public's trust in its management of the public's money.

Concurrently, and until such time as dissolution occurs, the Grand Jury recommends improvement in three general areas:

- Financial Reporting
- Simplification/Divestiture
- Governance

BACKGROUND

The Harbor District was established in 1933 by a resolution of the County's Board of Supervisors. The District's boundaries include all of San Mateo County and the District receives property tax dollars from the entire County. These property taxes make up the majority of the District's revenues with the remainder of its operating budget derived from fees for services, grants, and interest on investments.

The District is an independent special district. Special districts are local governmental agencies created to meet specific needs. A special district is considered "independent" if it is governed by a board of directors or commissioners elected by the district's voters.⁶ A five member Board of Harbor Commissioners, elected by the voters of the County for staggered four-year terms, governs the Harbor District.

The Harbor District's core public service is the operation of two facilities: Pillar Point Harbor at Half Moon Bay, and Oyster Point Marina/Park in the City of South San Francisco. Pillar Point Harbor, owned and operated by the District, is a 369-berth working fishing harbor. Oyster Point is a 600-berth recreational boating marina. The City of South San Francisco owns Oyster Point. The Harbor District manages it for the City under a Joint Powers Agreement.

The District has grown greatly in size and complexity from its 1933 original, focused plan, which was to develop a commercial port in Redwood City. Unlike most special districts, the Harbor District provides multiple and varied services. Today it is a \$10 million⁷ governmental agency primarily funded by both property taxes and commercial activities. Its span of control now includes:

- Breakwater construction
- Dredging operations

⁵ Section 57077.1 of the CKH Act allows for dissolution of a district without an election unless there is a majority voter protest.

⁶ Conversely, a "dependent" special district is governed by either a city council or county board of supervisors.

⁷ http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf page 7

- Swimming beaches
- Pier development and maintenance
- Commercial fishing
- Commercial fish buying
- Recreational boating including liveboards
- Launch ramps
- Search and rescue operations
- Public access, including picnic areas, hiking and jogging trails, and education programs
- Commercial enterprises such as restaurants and marine services, water sports, and an RV park
- Ferry services
- Surplus real estate

It is useful to note that about 85% of the special districts in California provide a single, specific service such as mosquito abatement, police or fire protection, or sewer services. Unlike most special districts, the Harbor District-- as shown above--provides multiple and varied services.⁸

METHODOLOGY

In connection with its research regarding this report, the Grand Jury reviewed all of the following documents, attended site tours, and conducted interviews with key personnel as listed below.

Documents

- California State Legal Codes⁹
- California State Controller Reports
- Local Agency Formation Commission (LAFCo) Municipal Service Review (MSR)¹⁰
- Prior Grand Jury reports¹¹

⁸ <http://calafco.org/docs/SpecialDistrictFactSheet2009.pdf>

⁹ Cortese-Knox-Hertzberg Govt. Reorg. Act of 2000 Code §56000-57550, California Harbors & Navigation Code §6000, The Brown Act Code §54950

¹⁰ www.co.sanmateo.ca.us/Attachments/lafco/pdfs/2006_10_lafco_ms_harbordist.pdf

¹¹ Grand Jury reports reviewed: 1979-1980, 1986, 1989, 1990, 1991, 1992, 2001-2002

- Harbor District documents¹²
- Press reports about, and video recordings of, commission meetings
- Reports and publications from organizations supporting local governance¹³

Site Tours

- Pillar Point Harbor
- Oyster Point Marina/Park
- Harbor District Commission Meetings

Interviews

- Harbor District Commissioners and Senior Staff
- County officials
- South San Francisco officials
- Coast Guard official
- Santa Cruz Port District senior staff
- County Sheriff's Department
- Harbor District Lessees
- Local press familiar with issues raised in this report
- San Mateo County LAFCo
- Harbor District Auditor
- Independent Auditor

DISCUSSION

As a result of its investigation, it is abundantly clear to the Grand Jury that the citizens of the County would be best served, both financially and in terms of better service, if the District were dissolved and its operations assumed by the County and other successor agencies. The District's history of dysfunction is well documented and it exceeded its core mission long ago.

¹² For a list of documents reviewed see Appendix B

¹³ www.csda.net, www.ca-ilg.org, www.sdlf.org, www.calafco.org,
http://www.inyocounty.us/Recorder/Documents/Whats_So_Special.pdf

The lengthy and antagonistic relationship between the Harbor District and the citizens of San Mateo County goes back at least 50 years. In 1963 57% of the County's voters agreed that the District should be dissolved. In 1966 it was in fact dissolved. But a court overturned that decision¹⁴ and the District was reinstated. In 1990 the Grand Jury advocated for dissolution, and did so again the very next year, concluding that, "Substantial cost savings would be realized by dissolving the San Mateo County Harbor District and placing control of that district's facilities under the Board of Supervisors."¹⁵

While there is a defined path for dissolution,¹⁶ the primary hurdle is the complexity of determining successor agency(ies) and developing a comprehensive plan and budget, especially when the District itself has always been adamantly opposed to dissolution. If dissolution cannot be accomplished (despite remaining the Grand Jury's top recommendation), many of the existing problems could be mitigated by clearer financial reporting and transparency, a simplified restructuring of the District, and improved governance.

Dissolution

Dissolution of the Harbor District is the best and most obvious solution for its myriad problems. The Grand Jury believes that dissolving the District would not deprive the County's citizens of any related benefits. At least one senior County official indicated to the Grand Jury that the County would be willing to pursue absorbing all or most of the District's duties. The resulting economies of scale would provide taxpayers with cost savings in areas such as human resources, property management, administration and finance. In the operation of Coyote Point Marina, the County has already demonstrated its experience in managing a recreational harbor. Another senior County official interviewed by the Grand Jury indicated interest on the part of the County Parks Department in taking control of the West Trail (also known as Mavericks Trail), currently under District management.¹⁷ The Grand Jury's interviews with County officials, revealed the existence of possible successor agencies for some of the District's operations.

The LAFCo MSR of 2006¹⁸ also recommended dissolution and listed two areas for potential cost savings to be derived from a transfer of service: the cost of administration and Harbor Commission expenditures. In the last fiscal year operating expenses for administration were \$1,160,628. Commission operating expenses were \$529,589.¹⁹ These two areas of expense comprised 23% of the District's FY 2012-2013 annual expenditures.²⁰ A significant line item of the commission's operating expense was the cost of the last biennial election of District commissioners. That cost was \$376,975.²¹

¹⁴ The court overturned the decision due to a procedural error. See: San Mateo County Harbor Dist. vs. Board of Supervisors 273 Cal. App. 2d 165

¹⁵ 1991 GJ report, San Mateo County Jury Commissioner's Office

¹⁶ See Appendix C for a description of the dissolution process.

¹⁷ Grand Jury interview with senior County Park & Recreation staff member

¹⁸ http://www.co.sanmateo.ca.us/Attachments/lafco/pdfs/2006_10_lafco_ms_harbordist.pdf

¹⁹ http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf page 8

²⁰ *ibid*, page 8

²¹ *ibid*, page 28

The County's assumption of most or all of the District's operations could result in a new designation of the District as a "dependent" special district with commissioners appointed by the Board of Supervisors rather than elected by County-wide voters. An additional benefit of dependent status could be the ability to require that appointees hold certain qualifications, such as commercial fishing experience, environmental expertise and so on. Residency requirements (e.g. that at least one commissioner reside on the coastside and another on the bayside) could also be imposed.

In addition to the County, potential successor agencies such as the City of Half Moon Bay and the Midpeninsula Regional Open Space District already exist which might reasonably assume some of the District's operations with resultant cost savings and greater efficiencies. Attempts to dissolve the Harbor District in the past, however, have been thwarted multiple times.²² Consequently, although dissolution of the District was brought before voters and the courts as far back as 1966, the only tangible results were legal costs to the taxpayers. Several subsequent attempts to dissolve the District or to detach other public entities (as explained below) from the District also have failed. As stated above, the 2006 LAFCo municipal service review (MSR) recommended dissolution with the County as the successor agency to assume the District's operations. The response from the District was uncompromising disagreement, and due to the legal intricacies inherent in the process of dissolution,²³ the District remains as-is.

Detachment

Another option considered by the Grand Jury is a procedure called detachment. State law provides an opportunity for any city or other district that falls within a special district's boundaries to petition for withdrawal of their property tax monies from that district. According to LAFCo, since 1973 at least 10 separate cities, towns, and special districts within the County have applied, unsuccessfully, for detachment from the Harbor District.²⁴ However, since every citizen of the County potentially benefits from at least some of the District's operations, it can be argued that exempting only a subset of entities from the tax burden associated with supporting the District would create new inequities.

The desired result of the Grand Jury's recommendations is to preserve, protect and enhance the assets of the Harbor District for the citizens of this County. The Grand Jury's first recommendation remains dissolution. However, due to the past failed efforts, our further recommendations focus on developing three competencies: better fiscal transparency, greater operating efficiencies through simplification and divestiture, and more professional and collegial governance.

FINANCIAL REPORTING

All of the District's activities can be categorized as either enterprise or non-enterprise. An enterprise activity is one where a district charges fees for services provided to its customers.

²² The 1990 Grand Jury reported that at least five attempts to dissolve the District or reduce its tax base through detachment had occurred. At least 3 more attempts have been made since.

²³ The primary deterrents to dissolution are cited as the threat and cost of litigation and the complexities of finding successor agencies with an adequate plan for continued operation.

²⁴ LAFCo email to Grand Jury June 2, 2014

Commercial fishing, for instance, is an enterprise activity. In contrast, managing the West Trail, in which no fees are charged to the public for its use, is a non-enterprise venture.

State law gives special districts wide latitude in how they can spend public tax monies. Therefore the Harbor District, like every other special district, has the discretion to use property tax monies to benefit private enterprise (like commercial fishing) if it so decides. But despite this latitude allowed under state law, the California Legislature expressed clear intent with respect to the allocation of a special district's share of its property tax revenues: enterprise districts are encouraged to recover the cost of providing services through the fees they charge.²⁵ Districts should dedicate their property tax revenues to the funding of non-enterprise services (such as search and rescue).²⁶

The use of property tax monies to fund enterprise services is at the core of this Grand Jury's concern. At least one commissioner recently stated his confidence that property values in the County are increasing and that the District can expect to receive even more tax revenue in the coming years.²⁷ This comment makes it appear likely that the use of public property tax monies to subsidize enterprise activities will not only continue, but increase.

Ultimately, the Grand Jury feels that the District should clearly inform County taxpayers how much of their property tax money is being spent to subsidize private, commercial activities. The District's financial reporting, though compliant with governmental reporting requirements,²⁸ lacks sufficient transparency for taxpayers to make that determination. The Grand Jury's review of the District's finances revealed that the District has received over \$20 million in property taxes in the last five years and that these monies are used, at least in part, to bridge the gap between what the District earns and what it spends.²⁹

The Harbor District holds significant assets that produce revenue. It owns buildings leased to restaurants, bait shops, and a surf shop. The District leases space to three wholesale fish buying operations on Johnson Pier at Pillar Point Harbor. The wholesalers purchase and unload salmon, halibut, rockfish, shellfish and bait directly from commercial fishermen. Other commercial operations that lease space from the District at Pillar Point include kayak rentals, an RV lot, a yacht club, and sport fishing and whale watching charter boats. The Grand Jury investigation revealed that lease analyses and benchmarking of pricing are infrequently performed.³⁰ The Grand Jury is not advocating for an ad hoc increase in rents charged and rates enforced, but more timely analyses of these revenue sources would be considered a best practice to ensure that revenues reflect current market rates. In fact, this same finding was noted in a 1990 Grand Jury report.³¹

²⁵ http://www.inyocounty.us/Recorder/Documents/Whats_So_Special.pdf page 10

²⁶ http://www.co.sanmateo.ca.us/Attachments/lafco/pdfs/2006_10_lafco_ms_harbordist.pdf page 13

²⁷ <http://www.smdailyjournal.com/articles/news/2014-06-06/harbor-district-dips-into-reserves-budget-reveals-need-to-draw-on-2m-to-cover-expenses/1776425124495.html>

²⁸ www.gasb.org

²⁹ District audited financial statements for fiscal years 2009-2013

³⁰ Per Grand Jury interview with senior Harbor management

³¹ 1990 Grand Jury report, San Mateo County Jury Commissioner's Office

Additionally, the District holds assets that are not producing revenue. These assets include a vacant commercial building at Oyster Point, unused and surplus land east of Highway 1 south of Pillar Point Harbor, and an abandoned, rotting pier at Pillar Point. The surplus properties are discussed later in this report.

Because the District reports, in its audited financial statement,³² a net income of over \$2 million for its fiscal year ending June 30, 2013 the Grand Jury believes that it is easy for the public to be misled into thinking the District's enterprise activities are profitable. Without the use of property taxes however, the District would be unable to show the positive net income it currently reports.

The Grand Jury's investigation revealed that, for at least the last five fiscal years, the District's operating expenses have exceeded its operating revenue (defined as revenues earned from fees for the services it provides) by more than \$18 million. In the last fiscal year, the cost of salaries and benefits to the Harbor District was 103% of its operating revenue. In other words, without using non-operating revenues like property tax monies, the District would not be able to make its payroll.³³ This structural deficit has led to an annual depletion of reserves, and is in direct contradiction to the District's own statements to the 1979-1980 Grand Jury that, "The definite statement of the District's management is to get the District off the tax roles (sic) - to budget the marinas commensurate with the operating revenues so as to be self-supporting."³⁴

It is clear from a recent public Harbor District meeting that the District's own commissioners struggle with the lack of easily understandable financial information regarding the District's enterprise activities.³⁵ The Grand Jury believes that a clear and separate accounting of all enterprise and non-enterprise revenues and expenses is vital to the taxpayers' and the commissioners' understanding of the District's financial condition and operation.

A Comparison: The Santa Cruz Port District

The Santa Cruz Port District (Port District or Port), an independent special district in Santa Cruz County that operates the Santa Cruz Harbor, functions without a penny of property taxes. In 1991, the Port began to wean itself from Santa Cruz County property tax revenues. Over a five year period, the Port surrendered its dependence on those taxes, transforming itself into a purely enterprise operation. The Port controls berths for recreational boating, the leases on restaurants, marine services and other businesses, search and rescue operations, launch ramps, and public access. While a comparison of the Port District to the Harbor District is not perfect, the Port District nevertheless offers many of the same services as the Harbor District, while consistently managing to balance its budget.³⁶ In addition, the Port District's financial reporting clearly reflects enterprise vs. non-enterprise revenues and expenses, providing much more visibility into their financial picture. Unlike the Harbor District, the Santa Cruz Port District prepares monthly management reports to assist their commissioners in understanding the results of operations and

³² http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf page 5

³³ http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf page 5 and pages 28-31

³⁴ 1979-1980 Grand Jury report, San Mateo County Juror Commissioner's Office

³⁵ <http://www.youtube.com/v/7bE6V2mcgXE?start=4256&end=4393&version=3>

³⁶ http://www.santacruzharbor.org/documents/AgendasAndReports/2013/2013_aug27/Item11.pdf

other fiscal activity, thereby providing much greater transparency to the commission and the public.³⁷

Again, it should be noted that the Harbor District's financial reports are compliant with generally accepted accounting principles as specified by the Governmental Accounting Standards Board (GASB).³⁸ The Port District's financial reports also comply with GASB standards. However, in 2011 the Port voluntarily expanded its budget and reporting approach to a program-based budget in order to provide added detail and transparency.³⁹

A review of the most recent audited financial statements of both the Harbor District and the Santa Cruz Port District revealed:

- 52% of the Harbor District's total revenue is sourced from County property taxes,⁴⁰ while the Port District received no property tax dollars.⁴¹
- For every dollar received by the Harbor District as operational revenue, it spends \$1.58.⁴² Conversely, the Port District's budget is balanced despite receiving no property tax monies.⁴³

Because all categories in the Harbor District's financial reporting are considered enterprise activities,⁴⁴ the resultant lack of transparency makes it difficult for the Grand Jury to determine how much taxpayer money is subsidizing commercial activity. Meanwhile, the Port District has adopted accounting methods that permit a clear understanding of their enterprise and non-enterprise functions.

The Grand Jury recognizes that there are significant differences in the operations of the Santa Cruz Port District and the Harbor District. The Port has many more lessees providing rental income, has a more cooperative agreement with the Coast Guard for search and rescue operations, and operates a revenue-generating, do-it-yourself boatyard for vessel repairs. But it cannot be ignored that the Port District is able to provide non-enterprise services and balance its budget without a reliance on any property tax dollars. The Grand Jury believes that the Harbor District would be well served to study the Santa Cruz model.

³⁷ Port District senior official email to Grand Jury June 12, 2014

³⁸ <http://www.gasb.org/>

³⁹ Port District senior official email to Grand Jury June 12, 2014

⁴⁰ See Appendix D

⁴¹ District auditor's email to Grand Jury June 30, 2014

⁴² *ibid*

⁴³ http://www.santacruzharbor.org/documents/AgendasAndReports/2013/2013_aug27/Item11.pdf

⁴⁴ District auditor's email to Grand Jury May 7, 2014

SIMPLIFICATION/DIVESTITURE

If dissolution of the District cannot be accomplished, and if detachment is inequitable, the Grand Jury strongly recommends simplification of the District's operation through divestiture of its non-core functions and outsourcing its property management.

As reported above, the District's responsibilities include many varied activities. Rescuing stranded kite-boarders and collecting rents from restaurants and a surf shop are all within the District's purview. Building restrooms for visitors using the West Trail and managing lien sales of boats whose owners have defaulted on their berth fees are also within the District's authority. So are collecting unloading fees from commercial fish buyers and hosting an annual Easter egg hunt.

The Grand Jury questions whether the Harbor District can ably manage these diverse activities efficiently and economically. Based on its research related to this report, the Grand Jury concludes that the District should, at a minimum, divest itself of some of its responsibilities and focus instead on its core mission of providing "safe, well-managed, financially sound and environmentally pleasant marinas".⁴⁵ As mentioned in the above discussion, the Grand Jury believes that successor agencies, with more specific competency, can be found to assume the services the District currently provides.

For example, the District reported to the Grand Jury that it is taking responsibility for improving the stability of the West Trail and constructing restrooms on site for visitors. The cost of these improvements is budgeted at \$365,000.⁴⁶ The popular trail follows the coastline just north of Pillar Point Harbor. The Grand Jury contacted a senior official with the County Parks Department, who indicated a willingness to explore a County take-over of the management of the trail.

As another example, a major dredging operation is necessary for the preservation of Surfer's Beach, located just south of the breakwater at Pillar Point Harbor. The Army Corps of Engineers will manage the project but, according to the Harbor District, requires a local funding co-sponsor. The Harbor District has assumed that role. It has already spent \$400,000 in planning costs before a grain of sand has been moved.⁴⁷ The final cost to the District for the project will be in the millions of dollars.⁴⁸ Yet Surfer's Beach is located within the City of Half Moon Bay. When asked by the Grand Jury why the dredging project has become the co-responsibility of the Harbor District, the answer was, "because Half Moon Bay is bankrupt." In fact, Half Moon Bay's current budget is balanced, with \$7.6 million in general fund reserves.⁴⁹ There may be other significant reasons why Half Moon Bay cannot (or will not) participate financially in the cost share of this project, but the answer given by the District indicates a willingness to expand its sphere of influence without considering the implications to taxpayers. Further, as described above in the Financial Reporting section of this report, without clear transparency of the

⁴⁵ <http://www.smharbor.com/harbordistrict/index.htm>

⁴⁶ http://www.smharbor.com/harbordistrict/final_budget_1314.pdf page 19

⁴⁷ Email from senior Harbor official June 9, 2014

⁴⁸ <http://www.smharbor.com/pillarpoint/ppdredge.htm>

⁴⁹ www.half-moon-bay.ca.us annual budget 2013-2014 page 51

District's financial data, neither the commission nor the taxpayers are able to make informed decisions regarding such expansion of the District's functions.

In 1996 the District purchased the decrepit Romeo Pier, located just north of Pillar Point Harbor, for \$185,000. The pier was once owned by the Romeo Packing Company, which used the pier to unload salmon and sardines for its packing plant in Princeton-by-the-Sea. When sardine fishing in the area ended in the 1950s, the pier was abandoned and left to rot. The pier has remained, decaying and idle, for nearly 20 years. Recently the Harbor commissioners rescinded their authorization of \$61,000 to begin study of a demolition plan.⁵⁰ It is estimated that removal of the pier will cost \$650,000.⁵¹ Again, the Grand Jury questions whether a lack of long term planning regarding this property reflects poorly on the decision-making ability of the Harbor Commission.⁵²

The Grand Jury noted, in a visit to the Oyster Point Marina/Park, a vacancy in a building managed by the District and recently vacated by a bait shop/convenience store. Months later the building is still empty. The Grand Jury believes that better efforts could be made in the management of all of the District's leases. As noted in the Financial Reporting section above, lease analyses for the District's tenants are infrequently performed. According to a senior District official the last lease analyses for the tenants at Pillar Point Harbor were conducted in 2006. The Grand Jury believes that the District would benefit by outsourcing the services of a local commercial real estate property management company. A professional property manager would bring greater management skills to the benefit of the tenants and the District. The property manager would also aid in the marketing effort to fill current and future vacancies.

The Grand Jury believes that the Harbor District's divestiture and outsourcing of these non-core activities will result in greater focus and efficiencies in those activities directly related to the District's core mission: harbor management.

GOVERNANCE

The Grand Jury believes that the District has evolved, perhaps organically, into a Hydra, the many-headed serpent of Greek mythology. Its numerous and varied operations now exceed the Commission's ability to govern effectively. This may not be a surprising conclusion. By law, Harbor District commissioners are paid \$600 monthly for a time-consuming and complex job requiring significant and wide-ranging expertise and attention to detail. In another special district, one with a very narrow and specific mission such as wastewater or fire protection services, a part-time governing board can be sufficient. But this is not the case with the Harbor District. It requires far more responsible governance than it currently receives. This is why the Grand Jury's primary recommendation is dissolution, with assumption of its governance by the County Board of Supervisors.

⁵⁰ <http://www.smharbor.com/harbordistrict/agendas/05072014.pdf>

⁵¹ www.midcoastcommunitycouncil.org/harborshoreline/

⁵² An additional surplus property, vacant and owned by the District since 1953, is referred to as the Post Office lot. Located just south of Pillar Point Harbor and east of Highway 1, the lot is "split zoned". The northerly portion adjacent to the existing post office is zoned for commercial development. A second portion of the parcel is zoned as El Granada Gateway and described as a largely open space. The Grand Jury is pleased that the District recently placed this long-held, non-producing asset up for sale.

It is impossible for the Grand Jury to ignore the negative public comments that the District's general manager frequently receives. He is most often the public face of the Harbor District. However, it should be noted that the general manager serves at the pleasure of the Harbor Commission with whom final oversight resides.

The behavior of the current Harbor District Commission, and reports of similar dysfunction going back at least as far as 2001,⁵³ seem to indicate a systemic flaw in the ability of District commissioners to govern effectively and collegially. As has been reported frequently in the press, commission meetings often devolve into shouting matches. A hotel that hosted commission meetings asked the District to relocate, citing complaints from hotel guests about the noise. Armed sheriff's deputies have been called to meetings to preserve order. One commissioner was chastised, at a public commission meeting, for asking whether the District's director of finance is a CPA. Another commissioner publicly expressed outrage when his seat next to the commission president was moved. By their own admission, commissioners have experienced bullying and antagonism, one commissioner even telling the Grand Jury that another commissioner's goal may be to "destroy the District." During the course of individual interviews with the Grand Jury, commissioners accused each other of ethics violations and of wasting taxpayer money.

This behavior is an embarrassment to the commission and reflects poorly on their ability to manage a \$10 million governmental agency heavily supported by taxpayers. The abysmal group dynamics are evident in the numerous hours of recorded video of commission meetings.⁵⁴ Body language, tone of voice, and verbal warfare create an atmosphere more often found in reality TV shows than in a governmental agency.

Although, the District itself recently recognized the need for more collegiality by hiring a facilitator,⁵⁵ a recommendation made 13 years ago by the 2001-2002 Grand Jury,⁵⁶ even that process was distorted by a squabble over the number of candidates to interview. After deciding on three, one invited candidate was left sitting, patiently waiting for his turn to speak, when the meeting was abruptly adjourned.⁵⁷

In interviews with the Grand Jury, most commissioners could not recall what internal committees existed, to which committees they were assigned, or when they last met. One commissioner told the Grand Jury that he was assigned to a committee the Grand Jury later learned did not exist. This indicates a lack of communication and clarity among commissioners. Commissioners admitted to the Grand Jury that the general manager received a contract renewal without the benefit of a performance review. Another commissioner reported to the Grand Jury that the commissioner was unable to obtain needed District information without having to resort to numerous public records requests. The general manager and a commissioner have filed suit

⁵³ http://www.sanmateocourt.org/court_divisions/grand_jury/2001reports.php?page=01SMCHarborDistrict.html

⁵⁴ <https://www.youtube.com/watch?v=xGJ6ZCpozLo>

⁵⁵ <http://www.smdailyjournal.com/articles/news/2014-03-21/san-mateo-county-harbor-district-seeks-help-commissioners-looking-to-hire-facilitator/1776425120124.html>

⁵⁶ http://www.sanmateocourt.org/court_divisions/grand_jury/2001reports.php?page=01SMCHarborDistrict.html

⁵⁷ <http://www.smdailyjournal.com/articles/news/2014-03-21/san-mateo-county-harbor-district-seeks-help-commissioners-looking-to-hire-facilitator/1776425120124.html>

against each other, charging harassment and incurring unknown legal fees to be borne by the District.

Reports in the press and in social media often comment on the disorderly commission meetings. In an attempt to restore order, the commission initially suspended video recordings, with one commissioner calling them a “fungus”.⁵⁸ Each member of the public is limited to 3 minutes for comment during meetings. Based on a proposal by the general manager⁵⁹ the District instituted a 5-minute time limit for commissioners to speak and created a requirement that agenda items be approved by a majority vote before being placed on the next meeting agenda. The press characterized these actions as an attempt to cut off dialogue.⁶⁰

The District’s dysfunction results in a lack of connection with some of its key stakeholders. In April of this year, for example, the District applied for a \$3.4 million federal grant⁶¹ to improve the infrastructure of Johnson Pier. Although the primary beneficiaries of these improvements would be commercial fishermen, some of these same constituents filed a protest letter asking the government to deny the application. The fishermen indicated that, despite promises to the contrary, they were not included in the planning of the proposed infrastructure changes. The fishermen wrote, “this is indicative of the lack of working relationship between the...District and the backbone of the industry on which the... Harbor has been built.”⁶²

At the outset of its investigation, the Grand Jury noticed that only one commissioner listed contact information on the District’s website. Other commissioners refused to post something as simple as an email address. These commissioners even appealed to the District’s legal counsel, attempting to have the one commissioner’s contact information deleted. Upon advice from their attorney, the remaining commissioners did eventually post email addresses. According to local press reports, the law firm that has represented the District for years recently advised the commission to seek new legal counsel.⁶³

Each commissioner, individually, told the Grand Jury that fiscal oversight of the District was the most important responsibility of the commission. Yet the District has been operating on a 23-year old Pillar Point Harbor long-range master plan, which remains in effect today. A Request for Proposal for a new strategic business plan was finally issued this fiscal year.⁶⁴

In interviews with the Grand Jury, only one commissioner was conversant with current District fiscal issues such as the amount and uses of financial reserves or when tenants’ lease analyses had last been performed. Additionally, the commissioners were unaware of who was assigned to the financial committee or when it last met. Interviews with commissioners indicated that only claims and expenses were reviewed monthly and not on a detailed line item basis. The Grand

⁵⁸ <http://www.smdailyjournal.com/articles/Inews/2014-02-08/harbor-district-caught-in-storm-infighting-and-allegations-overshadow-boards-work/1776425117883.html>

⁵⁹ <http://www.smharbor.com/minutes/mf091813.pdf>

⁶⁰ http://www.hmbreview.com/news/harbor-commission-cuts-off-colleague-tightens-rules/article_b9da135a-05d7-11e3-9671-001a4bcf887a.html

⁶¹ http://www.smharbor.com/harbordistrict/tiger_grant_2014.pdf

⁶² www.halfmoonbayseafood.org

⁶³ http://www.hmbreview.com/news/attorney-to-part-ways-with-harbor/article_6eab2fa6-b08e-11e3-8534-001a4bcf887a.html

⁶⁴ http://www.smharbor.com/harbordistrict/StrategicBusinessPlan_RFP2013.pdf

Jury believes that the commissioners' attention to budget is inadequate. Exceptions to the budget are reported only at the discretion of the finance director. The commission approved expenditures exceeding budget. These actions then required the District to either dip into reserves and/or rescind its prior decisions.⁶⁵ This occurred less than six weeks from the end of the current fiscal year.

A Grand Jury report published this year,⁶⁶ recommended every independent special district in the County seek certifications in governance from the Special District Leadership Foundation (SDLF).⁶⁷ The Harbor District would especially benefit from the training in finance and fiscal accountability, leadership and collegiality these courses offer. The Grand Jury specifically recommends that each commissioner attain the "Recognition in Special District Governance" certification.⁶⁸ This course provides core governance training for special district board/commission members.

The Grand Jury also recommends that the District's general manager earn the SDLF's "Special District Administrator Certification".⁶⁹ This certification requires course work and an examination and is aimed at improving the knowledge and skills of a special district administrator.

FINDINGS

- F1. The Local Agency Formation Commission recommended dissolution of the Harbor District in 2006 with the County identified as the successor agency. The Grand Juries of 1990 and 1991 also recommended dissolution.
- F2. The District's financial reporting meets the Governmental Accounting Standards Board requirements.⁷⁰
- F3. Commissioners are not receiving timely and adequately detailed financial reporting to support fully informed decisions.
- F4. Committees, both standing and ad hoc, are not consistently formed nor do they meet with any regularity.
- F5. Potential successor agencies exist which could reasonably assume all or some of the District's current responsibilities.
- F6. The District consistently requires tax dollars to offset operating losses.

⁶⁵ <http://www.smdailyjournal.com/articles/news/2014-06-06/harbor-district-dips-into-reserves-budget-reveals-need-to-draw-on-2m-to-cover-expenses/1776425124495.html>

⁶⁶ http://www.sanmateocourt.org/documents/grand_jury/2013/web_transparency.pdf

⁶⁷ The SDLF was created in 1999 and defines itself as "a 501(c)(3) organization formed to provide educational opportunities to special district officials and employees to enhance service to the public provided by special districts in California." The sister organization of the SDLF is the California Special Districts Association (CSDA). The CSDA has been in existence since 1969 to "promote good governance and improve core local services through professional development, advocacy, and other services for all types of independent special districts."

The SDLF can be found at www.sdlf.org.

⁶⁸ <http://www.sdlf.org/#!/recognitions/c309>

⁶⁹ <http://www.sdlf.org/#!/sda-certification/ctzx>

⁷⁰ www.gasb.org and www.gfoa.org

- F7. Operating losses for the last 5 fiscal years are approximately \$18.3 million.⁷¹
- F8. The District holds long-term assets that have not been revenue producing.
- F9. At least 10 separate cities, towns, and special districts within the County have applied for detachment from the Harbor District.
- F10. The District infrequently performs lease analyses and price/rate benchmarking.
- F11. The District has been operating on a 23-year old Pillar Point Harbor master plan.
- F12. The Santa Cruz Port District successfully weaned itself from the use of any property tax revenues while continuing to provide non-enterprise services and balancing its budget.

RECOMMENDATIONS

- R1. The Local Agency Formation Commission will initiate a service review of the Harbor District by December 31, 2014.
- R2. The County Board of Supervisors will begin the process of dissolution of the Harbor District by December 31, 2014.
- R3. The Harbor District will commence study, by September 1, 2014, of the Santa Cruz Port District as a model for financial planning and reporting to provide clarity to enterprise/non-enterprise revenue and expense categories.
- R4. The Harbor District will develop a plan to eliminate the use of property tax revenue for offsetting enterprise losses by March 30, 2015.
- R5. The Harbor District will standardize detailed quarterly financial reporting at commission meetings by March 30, 2015.
- R6. The Harbor District will identify a successor agency to assume control of the West Trail by December 31, 2014.
- R7. The Harbor District will explore transferring or cost-sharing, with the City of Half Moon Bay, the co-sponsorship with the Army Corps of Engineers of the Surfer's Beach dredging operation by December 31, 2014.
- R8. The Harbor District will continue to seek interested parties to acquire non-revenue producing surplus properties.
- R9. The Harbor District will explore the outsourcing of management of all commercial real properties to a real estate management firm by December 31, 2014.
- R10. As soon as possible after the November 2014 Harbor Commissioner elections, the Harbor District will form standing and appropriate ad hoc committees, which meet regularly.
- R11. Harbor District commissioners and general manager will earn Special District Leadership Foundation certifications by July 1, 2015.

⁷¹ District audited financial statements for fiscal years 2008-2013

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the Grand Jury requests responses as follows:

From the following governing bodies:

- R1. San Mateo County Local Agency Formation Commission
- R2. County Board of Supervisors
- R2-R11 San Mateo County Harbor District
- R7 The City of Half Moon Bay

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda and open meeting requirements of the Brown Act.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.

APPENDIX A

List of citations for SUMMARY, Paragraph 1

Yearly losses: SMHD audited financial statement:

http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf

Armed deputies/harassment complaints: <http://www.smdailyjournal.com/articles/Inews/2014-02-08/harbor-district-caught-in-storm-infighting-and-allegations-overshadow-boards-work/1776425117883.html>

Commissioners mocked: <https://www.youtube.com/watch?v=xGJ6ZCpozLo>

Missing checks: http://www.hmbreview.com/news/harbor-district-details-missing-checks/article_23e1f94a-4258-11e3-a1a7-0019bb2963f4.html

Chair caper: https://www.youtube.com/watch?v=q_rCWBE5uKU

Public outcry:

<http://www.smdailyjournal.com/articles/opinions/2014-02-22/special-district-dysfunctions/1776425118591.html>

<http://www.montarafog.com/vanilla/discussion/446/harbor-districts-tucker-pushing-to-eliminate-videotaping-of-board-meetings-says-stars-are-acting/p1>

Records destruction:

http://www.mercurynews.com/bay-area-news/ci_25054464/harbor-district-bid-destroy-records-viewed-suspicion

Commission benefits:

http://www.mercurynews.com/salary-survey/ci_24798591/former-part-time-pols-bay-area-reap-medical

District Property tax revenue FY 2012-2013:

http://www.smharbor.com/harbordistrict/SMCHD_financial_year_endingJune302013.pdf (page 13)

APPENDIX B

Harbor District documents reviewed by the Grand Jury:

- Policies & Procedures Manual
- Joint Powers Agreement with City of South San Francisco
- Organizational chart
- Job descriptions
- Budget Workshop Materials Packet
- SMCHD Website and links
- Memo dated 6/2003 to Board of Harbor Commissioners from Peter Grenell: re: Harbor District Priority: Increase Funding
- SMCHD Draft Rates & Fee Schedules
- Map of Pillar Point Harbor Jurisdiction
- RFP: To Provide Strategic Business Plan Preparation Services (October 2013)
- Johnson Pier Feasibility Study
- Dashboards for Pillar Point Harbor
- Oyster Point Marina Capital Improvement Program 2010-2015
- Agenda and Packet for Strategic Planning, Finance and Priorities Workshop 2012
- SMCHD Marketing Plan (from Business & Management Plan dated 5/30/13)
- Records Management Policy from Policies & Procedures Manual #2.1.4 (Approved and Effective 7/17/96)
- Resolution 19-13 of the SMCHD to Amend Resolution 5-94 Rules for the Preparation and Distribution of Meeting Agendas
- Memo dated 4/24/2012 To Board of Harbor Commissioners from Peter Grenell re: Informational Update on Pillar Point Harbor 1991 Urban Waterfront Restoration Plan Implementation as part of the SMCHD's Strategic Planning Process
- Harbor District Emergency Reserve Funds as per the FY 2012-2013 Capital & Operating Budget
- Tiger Grant Application Letter dated 5/19/14 to US Dept. of Transportation, Office of Infrastructure Finance & Innovation
- SMCHD: List of Major Capital Improvement Projects FY 2013-2014 (adopted in Budget)
- SMCHD 2013 Harbor Commission Committee Assignments
- Memo dated 3/14/3013 to Board of Harbor Commissioners from Peter Grenell re: Information on Board of Harbor Commissioners Committees
- SMCHD List of Major Capital Improvement Projects FY 2013-2014
- Map of District's parcels at Pillar Point Harbor.
- Map of State Tidelands Grant
- Board of Harbor Commissioners Meeting Minutes (various)

APPENDIX C

District Dissolution
Application Processing

Processing Steps
Adoption of Resolution of Application by County of San Mateo or any city or district requesting dissolution and establishing either a short term or long term successor agency. Application must have plan for service and a budget.
LAFCo Receipt of Application
Referral by LAFCo to Affected Agencies/Data Collection
Issue Certificate of Filing within 30 days (starts 90 day clock for LAFCo Hearing)
San Mateo LAFCo Hearing to consider application (May be continued for up to 70 days)
If approved, <u>Notice of Protest Hearing</u> (Must be issued within 35 days of LAFCo action, <u>Hearing may not be held sooner than 30 days from LAFCo approval</u>)
Protest Hearing held by Executive Officer (Must be no sooner than 21 days and no later than 60 days from date of Notice) (Written protest must be submitted by conclusion of protest hearing.)
Within 30 days from Protest Hearing, Executive Officer shall make a finding about the protests submitted and not withdrawn and order the dissolution without election if less than 50% of the voters submit protest or terminate the application if greater than 50% submit written protest.
If no election, LAFCo files Certificate of Completion and either date of recordation or a predetermined date such as the beginning of a fiscal quarter or year is the effective date.

APPENDIX D

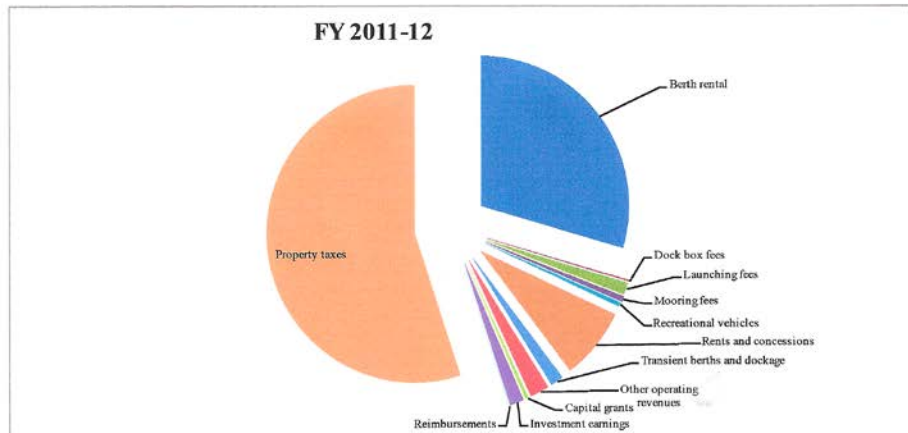
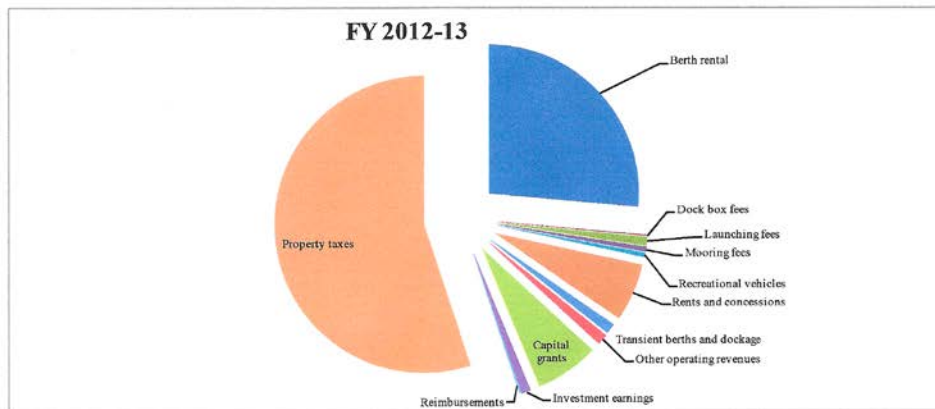
**San Mateo County Harbor District
Basic Financial Statements
For the year ended June 30, 2013**

Management's Discussion and Analysis, Continued

Financial Analysis of the District as a Whole, Continued

The following is a graphic illustration of revenues by source:

**Revenues by Source
Both Operating & Non-Operating**



Issued: July 9, 2014



San Mateo County Harbor District

Board of Harbor Commissioners

Pietro Parravano, President
James Tucker, Vice President
William Holsinger, Secretary/Treasurer
Sabrina Brennan, Commissioner
Robert Bernardo, Commissioner

Peter Grenell, General Manager

August 22, 2014

Honorable Lisa A. Novak
Judge of Superior Court
c/o Charlene Kresevich
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655

Re: July 9, 2014 Grand Jury Report on the San Mateo County Harbor District

Dear Judge Novak:

On August 20, 2014 the Board of Harbor Commissioners of the Harbor District (Board) approved this response to the above-referenced Civil Grand Jury Report (Report). The report listed twelve Findings and eleven Recommendations. In accordance with the Court's instructions, the District's response to these Findings and ten of the Recommendations follow below.

INTRODUCTION

The District takes the Grand Jury report seriously. Several points in the report in particular have been noted by the District, and this response reflects the Board's recognition that there is always room for improvement.

Nevertheless, we take this opportunity to preface our comments with three key points that are reflected throughout the District's responses to the Report's specific Findings and Recommendations.

First, the Report comments that the District has evolved into a "hydra" that now engages in numerous and varied operations in excess of its abilities. In fact, the District's wide-ranging activities are entirely consistent with the statutorily authorized purposes granted by the State Legislature:

- A harbor district may acquire, construct, own, operate, control, or develop any and all harbor works or facilities within the limits of its established boundaries (Harbors and Navigation Code Section 6075 (a)).

- [A harbor district] may manage the business of the district and promote the maritime and commercial interest by proper advertisement of its advantages and by the solicitation of business within or without the district, within other States or in foreign countries, through such employees or agencies as are expedient (Harbors and Navigation Code Section 6077.4).
- A harbor district may acquire, purchase, takeover, construct, maintain, operate, develop, and regulate...any and all other facilities, aids, equipment, or property necessary for, or incident to, the development and operation of a harbor or for the accommodation and promotion of commerce, navigation, or fishery in the harbor district. (Harbors and Navigation Code Section 6077.5).
- [The Harbor District Board] may do all other acts necessary and convenient for the full exercise of its powers. (Harbors and Navigation Code Section 6078).
- The District's special act provides that the lands of the District are to be used:

...for the establishment, improvement and conduct of a harbor[,] and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures, facilities and appliances necessary or convenient for the promotion and accommodation of commerce and navigation, and for the construction, maintenance and operation therein of structures and facilities for public recreational purposes...[Statutes of California, 1960, chapter 68, section 1(a)]

Consistent with the Legislature's command, the District provides a valuable resource for all County residents. Indeed, the District will become an even more important asset for the future as the County mobilizes to address such challenges as adapting to sea level rise impacts. A brief list of the District's critical functions will suffice to demonstrate its irreplaceable value to the County:

- Because the County Board of Supervisors created the Harbor District in 1933 with countywide jurisdiction, the District operates two facilities, Pillar Point Harbor (Princeton) and Oyster Point Marina/Park (South San Francisco). The District is thus uniquely experienced in working with both coastal and San Francisco Bay agencies and issues.
- The District operates Pillar Point Harbor under a State tidelands grant awarded by the California Legislature in 1960. This mandate includes harbor operations for commerce, navigation, and fisheries and provision of recreational facilities.
- The County Midcoast Local Coastal Program's public access policies explicitly encourage the Harbor District to continue efforts to provide visitor facilities and public access trails and related facilities (Midcoast Local Coastal Program, 10.49 and 11.30).

- The Harbor District is the first responder on the San Mateo Coast to over 100 distress calls per year for ocean search and rescue. It has received a commendation from the U. S. Coast guard for its critical public safety efforts.
- The Pillar Point facility is a State-designated harbor of refuge for the fishing fleet and other vessels, namely “a port, harbor, inlet, or other body of water normally sheltered from heavy seas by land and in which a vessel can navigate and safely moor” (Harbors and Navigation Code Section 70.3);
- The Harbor District’s outstanding environmental stewardship resulted in the 2013 award of Clean Marina Certifications for both District harbors by the State Clean Marina program;
- The Oyster Point facility is an important water transportation link and part of the San Francisco Bay water transportation emergency response network, and is a designated High Opportunity Site on the San Francisco Bay Water Trail system for non-motorized vessels;
- Pillar Point Harbor is an increasingly popular regional visitor destination and location for special events on mid-coastside, as well as a location for purchasing fresh fish off-the-boats (Pillar Point);
- Oyster Point Marina/Park is a growing Bayside recreational destination and site for special events for South San Francisco and other north peninsula residents.

Second, despite the Report’s intimations to the contrary, the District continues to be financially sound, as previously acknowledged by the Grand Jury in the past. Contrary to the Report, the District’s budgeting and financial reporting procedures are consistent with prudent and transparent fiscal practices. The Report appears to contradict itself by indicating reports are in accordance with standards, but are not transparent. Transparency exists if the financial reports reflect the operations of the District and their books of record. The Report neither defined this term nor provided anything other than separation by enterprise and non-enterprise operations as the basis for further criticism of the District’s financial reporting. This type of reporting, which is merely a preference, would require detailed tracking at such a level that it would not provide valuable planning and operating information and would be cost prohibitive, which as a public agency would not be prudent financial management of public funds.

- The Board does receive financial reporting and has always adopted its budget on time.
- The District continues to pay back its facilities development loan balance to the Division of Boating and Waterways (DBW); regular debt service payments to DBW, including the July 2014 payment, will enable the District to retire its loan balance at least one year earlier than scheduled in 2018.
- The District’s employee obligation for employment termination benefits is fully funded, and the District has substantial additional cash reserves. The District acknowledges

that future pension liabilities will need to be recorded due to new Standards being established for their reporting in 2015-16. Both of these liabilities (termination benefits and pension) are funded over time as contributions are made and retirees (terminating employees) are paid, therefore indicating that these will need to be paid all at once would require all District employees eligible for benefits to leave in the same fiscal year, which does not appear to be a realistic expectation, unless, of course, the Report's recommendation of dissolution is implemented, which would burden any successor agency. Also, pension obligations are reflected in increased annual contribution rates and the District has always paid 100% of their annual required contribution, a portion of which reduces this pension obligation liability. As part of long term financial planning the District will evaluate the necessity to provide additional payments or establish reserves to further reduce this obligation.

- As is the case with all local government in a post-Proposition 13 world, the District receives property tax revenues in an amount insufficient to pay for all of the critical services it provides. The District has therefore increasingly looked to enterprise activities to increase revenues, while not cutting critical services that benefit all County residents. This is a difficult balancing act engaged in by all local government throughout California. Contrary to the Grand Jury Report, there is nothing illegal, improper, or unreasonable in balancing a budget through the use of both property tax and reserves.
- The District has appropriately commenced –before the Grand Jury issued its Report – a Strategic Business Planning process, which will provide a detailed blueprint for the District's long term financial planning and investment decisions into the future for both Pillar Point Harbor and Oyster Point Marina/Park, and a mechanism for monitoring and course corrections through annual budgeting. The Plan, whose preparation includes extensive public engagement and community outreach, will address enhancing revenues in order to reduce reliance on property tax revenue, identifying multi-year capital facilities needs and financing options, sea level rise adaptation measures, sustaining the fishing industry, and achieving further operational efficiencies.

Third, the District openly acknowledges the Report's criticisms concerning governance issues, in particular regarding collegiality among Board members. It is not proud of the negative public attention this issue has received. But the District believes that it is taking active steps to make improvements in this area. For example, the District has retained the services of a professional facilitator who is working with the Board on communication and interaction. In addition, at its meeting on August 6, 2014, the Board committed to additional training from the Special District Leadership Foundation, leading to the attainment of certification in this program for all board members and the General Manager within the current fiscal year.

With the above context in mind, we now turn to specific responses to the Report's Findings and Recommendations.

RESPONSE TO FINDINGS

F1. The Local Agency Formation Commission recommended dissolution of the Harbor District in 2006 with the County identified as the successor agency. The Grand Juries of 1990 and 1991 also recommended dissolution.

RESPONSE: The District disagrees partially with the finding in that it is selective and does not present the full context of Grand Jury action. In fact, with the Civil Grand Juries of 2000-2001 and 2001-2002 did not recommend dissolution of the Harbor District.

The 2000-2001 Grand Jury found that the District “is under sound fiscal management implementing a long range plan for maintenance and capital outlay.”

In part in response to the 2001-2002 Grand Jury recommendation, the District has increased its revenues from all new or amended leases executed since 2002.

F2. The District’s financial reporting meets the Governmental Accounting Standards Board requirements.

RESPONSE: The District agrees with the finding.

F3. Commissioners are not receiving timely and adequately detailed financial reporting to support fully informed decisions.

RESPONSE: The District disagrees with the finding. The Board receives financial data throughout the year and they may request additional information as needed. Consistent with best practices, the Board receives financial data for the second, third, and fourth quarters of the fiscal year in the form of comparisons of budget to actual expenditures during public mid-year budget review, budget preparation workshops, and at presentation of the preliminary budget for the following fiscal year. Quarterly Investment Reports and annual financial reports are provided to the Board at regular District meetings. The District’s financial reporting is done through independent audits and financial statements, which must follow rules set forth by GASB and GAAP. The District has received clean annual financial audits consistently, which are reviewed by the Board.

F4. Committees, both standing and *ad hoc*, are not consistently formed nor do they meet with any regularity.

RESPONSE: The District disagrees partially with the finding. At this time the Harbor Commission has seven *ad hoc* committees and three standing committees:

Standing: Oyster Point Liaison
Pillar Point Citizens Advisory
Finance & Budget;

Ad hoc: Promotion & Marketing
Berthing Occupancy
New Administration Office and Post Office Lot
Harbor Environment
Oyster Point Ferry Service
Oyster Point Development
Pillar Point Coastal Trail

The Harbor Commission's *Ad hoc* committees meet when needed: committee members, who are Commissioners only, are selected by the Board President in consultation with his/her colleagues, and choose when and how often to convene, depending on the above-mentioned needs and/or as directed by the full Harbor Commission, and report back to the full Commission.

When an *ad hoc* committee is no longer needed, it is disbanded. For example, in past years the Commission created "Public Rest Room" and "New Pier" *ad hoc* committees to consider possible new related developments at Pillar Point Harbor; and also a Department (now Division) of Boating and Waterways committee to address the District's debt service concerns with DBW. These committees no longer exist as the need for them no longer exists.

The Commission's budget process, which provides for scheduled Board involvement, has reduced the need for the standing Finance Committee to meet regularly. The Oyster Point Liaison Committee was established pursuant to the Joint Powers Agreement between the District and the City of South San Francisco. This committee is convened as and when the City and District consider it necessary to address a particular issue or issues. The Pillar Point Citizens Advisory Committee, originally comprised of harbor tenants (with one at-large seat), has not been active for years as other communication means have proven more useful, e. g., those methods to be used during the Strategic Business Plan process including tenants meetings, other public meetings and workshops.

F5. Potential successor agencies exist which could reasonably assume all or some of the District's current responsibilities.

RESPONSE: The District disagrees with this finding in that it is a general statement that could actually be made about any responsibility of any local government agency. The District provides many valuable services to County residents that it believes could not practically, readily, efficiently, and perhaps even legally, be provided by any other agency. Absent a detailed and comprehensive examination of the legal, financial, organizational, and administrative implications regarding a particular responsibility to be assumed by an identified agency, the District cannot agree with this finding. Nevertheless, as discussed further in our responses to Recommendations R6 and R7, the District will attempt to implement those Report recommendations which are related to this finding.

The District points out that it operates not only under authority of its enabling legislation, but also under the State tidelands grant that allowed it to establish Pillar Point Harbor (Chapter 68, Statutes of 1960). Section 1(a) states: "That said lands shall be used by said district.....for the

establishment, improvement and conduct of a harbor.....and for the construction, maintenance and operation thereon of structures and facilities for public recreational purposes...”. Further, the San Mateo County Local Coastal Program, certified by the California Coastal Commission, encourages the District to “continue its efforts to provide public recreation and visitor-serving facilities...including provision of shoreline access and trails.” (Midcoast Local Coastal Program, 10.49 and 11:30) The State, through the Coastal Commission, certifies the Local Coastal Program.

Similarly, the District’s provision of a grant-funded Bay Trail link as part of its operation of Oyster Point Marina/Park for the City of South San Francisco in accordance with City desires for the facility, and with the San Francisco Bay Plan as administered by the San Francisco Bay Conservation and Development Commission (BCDC).

Finally, the District assumed the designation of local sponsor of the Army Corps of Engineers’ North Half Moon Bay Shoreline Improvement Project (Surfers Beach) was in direct response to public concern for addressing beach erosion problems which adversely affect public shoreline access and use. This erosion was caused primarily by the Corps’ construction of the outer breakwater to provide a harbor of refuge for the Pillar Point fishing fleet and other vessels, which local citizens vigorously pursued with Congress. The District’s role in this project accords with State and County dictates cited above.

As a result of the above, it is not at all clear the extent to which potential successor agencies exist which could reasonably assume many of the District’s essential responsibilities.

F6. The District consistently requires tax dollars to offset operating losses.

RESPONSE: The District disagrees with this finding as the assumption underlying the Finding fundamentally misunderstands how local government in California operates in a post-Proposition 13 world.

The District has statutorily authorized powers as discussed above. It makes expenditures only on projects consistent with those powers. It receives revenues from a number of sources, including its share of property taxes distributed by the County under the State’s complex distribution scheme embodied in Assembly Bill Eight (AB 8). Revenues and expenditures together make up the District’s budget, but the District does not attribute a specific revenue source to a specific expenditure. By way of example, the District does not specify that its harbor master’s salary is to be paid for exclusively out of the proceeds of leases at Pillar Point Harbor. This example shows the impracticality of directly linking property tax revenues to specific operating expenses. The District produces a District-wide budget each year that includes all revenues and expenditures.

It may be that in making this finding, the Grand Jury is actually expressing a policy preference that the District rely less on property taxes as a source of revenue – indeed the Report emphasizes that this is its core concern. That political opinion is discussed elsewhere in this response, but cannot serve as the basis for this Finding.

F7. Operating losses for the last 5 fiscal years are approximately \$18.3 million.

RESPONSE: The District disagrees with this finding. Fiscal Year 2009-2013 financial state-reported operating losses total \$17.7 million (Statement of Revenues, Expenses, and Changes in Net Position, 2009-2013).

Moreover, looking only at operating losses does not present the public with an accurate picture of the District's finances. All revenues received by the District must be considered with all district expenses. In the past five fiscal years, the District has had \$5.4 million more in total revenues than total expenses. This enables the District to invest in its infrastructure, and provide services to the general public as called for in its State mandate and County policies.

F8. The District holds long-term assets that have not been revenue producing.

RESPONSE: The District disagrees partially with this Finding to the extent that many of the District's long term assets are revenue-producing, such as the Johnson Pier and the Pillar Point RV Park in El Granada. The Finding also creates a false impression of the actual situation concerning three properties identified in particular by the Report, each of which is discussed below:

(1) El Granada "post office lot": The District leased this vacant parcel over a decade ago and received revenue from this leasehold. After the lessee was unable to obtain County development approval the District terminated the lease, declared the property surplus, and is actively taking steps to sell the property. Following declaration of surplus, the District contacted several public agencies as statutorily required to solicit possible interest in the property. No interest was forthcoming, but the District was contacted by another local public agency that expressed interest in acquiring the property, and the District is presently engaged in discussions with this agency.

(2) Oyster Point Bait & Tackle parcel: At the District's Oyster Point Marina/Park, the owner of the above-mentioned business had been providing revenue to the District for years but very recently closed the business and declared bankruptcy. The District terminated the lease, but could not immediately offer the parcel for lease again because of the ongoing bankruptcy proceeding which prevented District action. The District has now regained full control of the property, and is taking steps to prepare a new lease, offer the property for lease, and obtain a new lessee.

(3) Romeo Pier, Pillar Point Harbor: The District bought this pier in 1996 on which a commercial wholesale fish business operated for a number of years, paying lease revenue to the District. The District closed access to the pier in 2002 because of structural deterioration and safety concerns, and relocated the fish business to the Pillar Point inner harbor. The District's Strategic Business Plan process will include investigation of the economic and environmental feasibility of building a new multi-use pier at Princeton to replace the old wooden Romeo Pier. The old pier retains value for mitigation credit that would be applied to offset construction of the new pier.

F9. At least 10 separate cities, towns, and special districts within the County have applied for detachment from the Harbor District.

RESPONSE: The District disagrees with this finding because it creates a false impression that any applications for detachment are currently pending. In fact, no agencies have filed for detachment in over 40 years to our knowledge.

F10. The District infrequently performs lease analyses and price/rate benchmarking.

RESPONSE: The District disagrees with this finding. The District monitors leases monthly, verifies that lessees are adhering to lease terms and conditions and analyzes data submitted for percentage rents, Consumer Price Index (CPI) adjustments, and payment status. The District conducted analyses of several of its commercial leases at Pillar Point and Oyster Point in 2006. It is presently completing an audit of wholesale commercial fishing lease fees with respect to three Pillar Point Harbor leaseholds, and will undertake market analyses of two other commercial leaseholds this year. For these and future leases, the District will consider language to provide for more frequent review of market rates and appropriate rental adjustments.

F11. The District has been operating on a 23-year old Pillar Point Harbor master plan.

RESPONSE: The District disagrees partially with the finding. The District prepared the Pillar Point Harbor Master Plan and Urban Waterfront Restoration Plan (1991), which applied only to Pillar Point Harbor, but not to Oyster Point Marina/Park or the entire District. The Plan also did not contain financial analysis or project funding feasibility, and thus was never considered as a guide for District strategic financial or operational planning. The District's current comprehensive Districtwide Strategic Business Plan process will consider any 1991 Plan objectives that remain relevant for Pillar Point and which have not been already achieved or rendered moot by subsequent events.

F12. The Santa Cruz Port District successfully weaned itself from the use of any property tax revenues while continuing to provide non-enterprise services and balancing its budget.

RESPONSE: The District neither agrees nor disagrees with this finding as it has no specific knowledge of the Santa Cruz Port District's financial operations. However, the Santa Cruz Port District is a Port District, not a Harbor District. It has an entirely different enabling legislation and hence different authorities and procedures that govern its operations. Additionally, the Port is much larger than the District's facilities, and hence it would be logical to assume that it has an entirely different revenue base than the Harbor District.

RESPONSE TO RECOMMENDATIONS

R1. The Local Agency Formation Commission will initiate a service review of the Harbor District by December 31, 2014.

RESPONSE: None required as per Grand Jury instruction.

R2. The County Board of Supervisors will begin the process of dissolution of the Harbor District by December 31, 2014.

RESPONSE: While the Report asks the District to respond to this Recommendation, we are not in a position to be able to implement, or even conduct future analysis of, this recommendation.

However, The District considers this recommendation unwarranted. Factors summarized in this response demonstrate the District's value as a unique resource to County residents and visitors, as well as the difficulties inherent in its services being provided by any other public agency. The District is financially sound and is steadily reducing its loan balance ahead of schedule, has fully funded its employee benefit obligations, has substantial cash reserves, and continues to maintain and improve its harbor facilities. While the District acknowledges that there is always room for improvement, it has already taken many actions to provide a realistic and positive response to the Report. Dissolution is neither warranted nor practical.

R3. The Harbor District will commence study, by September 1, 2014, of the Santa Cruz Port District as a model for financial planning and reporting to provide clarity to enterprise/non-enterprise revenue and expense categories.

RESPONSE: The recommendation has been implemented, in that the District has already commenced study in accordance with the Recommendation. The analysis will be completed and presented to the Board by December 31, 2014.

R4. The Harbor District will develop a plan to eliminate the use of property tax revenue for offsetting enterprise losses by March 30, 2015.

RESPONSE: The recommendation will not be implemented because it is neither warranted nor reasonable.

Under the Revenue and Taxation Code, and pursuant to the complex property tax distribution scheme resulting from Proposition 13, the District receives from the County its share of property taxes. There are no restrictions on the use to which the District puts those tax revenues, so long as it is spending money consistent with its authorized purposes. In fact, the Report confirms this right of the District when it states: "State law gives special districts wide latitude in how they can spend public tax monies. Therefore, the harbor District, like every other special district, has the discretion to use property tax monies to benefit private enterprise (like commercial fishing) if it so decides."

The Report goes on, however, to state its own policy preference regarding property tax by stating: “But despite this latitude allowed under state law, the California Legislature expressed clear intent with respect to the allocation of a special district’s share of its property tax revenues: enterprise districts are encouraged to recover the cost of providing services through the fees they charge. Districts should dedicate their property tax revenues to the funding of non-enterprise services (such as search and rescue).”

There are numerous flaws in the Report’s reasoning. First, to support its position as the “clear intent” of the California Legislature, the Grand Jury references a 2010 document called “What’s So Special About Special Districts, a Citizen’s Guide to Special Districts in California.” Legislative intent is reflected in statutory law, though Courts sometimes also look to the proceedings of the Legislature that led to the enactment of specific legislation in order to discern legislative intent. This “Citizens Guide” cannot be said to represent legislative intent of anything.

Second, even were the “Citizens Guide” to reflect the preference of the Legislature, a review of this publication does not support the Report’s position. The publication states the obvious: “Special districts that run enterprise activities or deliver specific services can pay for their activities with service charges.” (What So Special About Special Districts? [Fourth Edition], page 9). That districts can pay for enterprise activities with services charges does not mean that they must only pay for enterprise activities with services charges and may not subsidize certain activities through tax revenues. The publication acknowledges this fact: “Special districts have coped with three decades of tough financial times. In 1977-78, the year before the voters passed Proposition 13, special districts received \$945 million in property tax revenues. In 1978-79, their property tax revenues dropped to \$532 million, a loss of almost 50%.” (What’s So Special About Special Districts? [Fourth Edition], page 10). Local Government throughout California is in the same situation as the District. Property tax revenues placed in cities and agencies’ general funds are not segregated for specific purposes. Three examples: The San Mateo County Transit District uses sales tax revenue to subsidize bus service throughout the County. The Westborough Water District shows operating losses which are offset by property tax revenue. (Westborough Water District- Statements of Revenue, Expenses and Changes in net position for fiscal years ending June 2012 and 2013.) The Granada Sanitary district had operating losses for 2011 and 2012. The property tax revenue received offset the operating losses. (Granada Sanitary District – Statements of Revenue, Expenses and Changes in net Position for fiscal years ending June 2011 and 2012.)

In sum, while a special district that runs enterprise activities may be “encouraged” to reduce its reliance on property tax revenues, there is no such requirement to do so, nor does the California Code reflect any legislative intent that it do so.

The Harbor District is always looking for ways to increase revenues and reduce expenses, all without relying on increased taxes. In fact, a key component of its Strategic Business Plan effort currently under way is to identify new and alternative sources of revenue to augment and diversify the District’s economic and financial base and reduce use of property tax revenue. But as discussed both here and in the response to Finding 6, the District uses all its revenue sources to pay for all of the valuable services it provides.

R5. The Harbor District will standardize detailed quarterly financial reporting at commission meetings by March 30, 2015.

RESPONSE: The Recommendation has already been almost entirely implemented, and will be completed implemented in accordance with the timeline set in the Recommendation. At the Board's direction, District staff already provides this information, but will expand provision to include the first quarter of the fiscal year as well given adequate staff and organizational adjustments. However, income statements show revenue and expenses to date as do budget to actual reports: the Board already receives these frequent budget to actual expense reports. These reports detail by line item how the District is reaching its budget goals while staying within the Board-approved budget.

R6. The Harbor District will identify a successor agency to assume control of the West Trail by December 31, 2014.

RESPONSE: The recommendation requires further analysis, which we will attempt to complete no later than December 31, 2014 in accordance with the Recommendation's timeline. The District will attempt to implement this recommendation, but identification of a possible successor agency is not entirely within the District's control.

The District has operated and maintained this popular public access facility for well over fifteen years, under agreement with the U. S. Air Force through whose Pillar Point Air Force Station the trail passes, and has done so consistent with the District's State tidelands grant and the County's Local Coastal Program. The District is presently in the process of obtaining permits to repair the trail. The District gets no revenue from this access facility and uses property tax revenue for maintenance..

The scope of the further analysis will include an analysis and study of (1) the various financial and other implications for the Harbor District of relinquishing control of the property, including the potential amendment of the District's tidelands grant by the State Legislature and potential amendment of the County's Midcoast Local Coastal Program Update; and (2) requesting that possible alternative agencies provide an analysis of the legal, financial, operational, and administrative capabilities to acquire and assume control of the West Trail property including making new arrangements with the U. S. Air Force, undertaking the immediate erosion control repairs to the trail including transfer of permit authority in order to keep the trail open for public use, implementing the balance of the project including trail improvements for the complete alignment, the vehicle parking lot, and provision of an ADA-compliant restroom, and reimbursement of the District for expenses incurred on the project to date.

R7. The Harbor District will explore transferring or cost-sharing with the City of Half Moon Bay, the co-sponsorship with the Army Corps of Engineers of the Surfer's Beach dredging operation by December 31, 2014.

RESPONSE: The recommendation will be implemented in accordance with the Recommendation's timeline. The District will inquire of the City of Half Moon Bay whether

there is interest and capacity to take on the financial and operational role of local sponsor for the Corps of Engineers' project, including reimbursement of the District for project expenses incurred to date. The District will also inquire of the Corps of Engineers what legal, administrative, and financial implications may exist for a shifting of local sponsor responsibilities.

Caltrans and San Mateo County have recently agreed to share responsibilities and cost of a proposed project at Surfers Beach for construction of a shoreline protection device, a segment of the Coastal Trail, and a vertical public access staircase to the beach. An inquiry would also need to explore the implications of this Caltrans/County project for the Army Corps project: whether the City of Half Moon Bay will participate in the Caltrans/County project and if not, what financial implications such lack of participation might imply for the City's ability to take on the local sponsor role of the Army Corps project including financial participation in project design, construction, and maintenance.

R8. The Harbor District will continue to seek interested parties to acquire non-revenue producing surplus properties.

RESPONSE: This Recommendation has been implemented in that the District has already begun implementation activities with regard to the District's single surplus property, the El Granada "post office lot" parcel. The District is in discussions with a local public agency that has expressed interest in acquiring the property.

R9. The Harbor District will explore the outsourcing of management of all commercial real properties to a real estate management firm by December 31, 2014.

RESPONSE: The District will explore the outsourcing of commercial property management within its Strategic Business Plan process according to the timeframe required by law: within six months from the date of publication of the Grand Jury Report.

R10. As soon as possible after November 2014 Harbor Commission elections, Harbor District will form standing and appropriate *ad hoc* committees, which meet regularly.

RESPONSE: The recommendation is already in place. The Harbor Commission's current list of committees includes: Standing: Oyster Point Liaison, Pillar Point Citizens Advisory, and Finance & Budget; *Ad hoc*: Promotion & Marketing, Berthing Occupancy, New Administration Office and Post Office Lot, Harbor Environment; Oyster Point: Ferry Service, Development; Pillar Point: Coastal Trail.

Upon taking the gavel, a new President of the Commission annually reviews the existing list of Board committees, and updates the committee list in consultation with his/her fellow Commissioners. Consistent with past practice, the new Harbor Commission President will review the existing committee set and consider possible changes; these may include eliminating those no longer needed, adding new ones if an identified need has surfaced, and/or adjusting committee membership among the Commissioners. The committees will

continue to meet as and when circumstances warrant: issues to be explored and discussed, and recommendations to be made to the full Commission.

R11. Harbor District commissioners and general manager will earn Special District Leadership Foundation certifications by July 1, 2015.

RESPONSE: This recommendation has not yet been implemented but will be implemented by the recommended July 1, 2015 timeline. The Board already approved this recommendation at its meeting on August 6, 2014.

The San Mateo County Harbor District will continue to strive to meet the needs of our constituents and community in the most transparent and user-friendly way possible. It is an honor to serve our patrons.

Thank you for your time and consideration. Should you require any additional information please do not hesitate to contact us.

Sincerely,



Pietro Parravano, President,
Board of Harbor Commissioners
San Mateo County Harbor District

cc: Board of Harbor Commissioners
Steven Miller, Legal Counsel